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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,640	12/29/2003	Peter Tsai	03248-URS	6903
33804	7590	10/13/2004	EXAMINER	
SUPREME PATENT SERVICES POST OFFICE BOX 2339 SARATOGA, CA 95070			CHAMBERS, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,640

Applicant(s)

TSAI, PETER

Examiner

Mike Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by James. James discloses a base plate (22) having a top face a first channel (42) formed in the top face and extending in a first direction, the first channel having opposite top flanges spaced from each other to define a slot there between a second channel formed in the top face and extending in a second direction, the second channel (40) having opposite top flanges spaced from each other to define a slot there between, the second direction being different from the first direction; a slide movably received in one of the channels and switchable between the channels, the slide forming a threaded rod (74) extending through the slot of the channel and beyond the flanges; and an upright stand (72) having a lower end defining an inner-threaded bore engageable with the threaded rod to attach the stand to the top face of the base plate, the upright stand having an upper end forming a cavity for receiving and supporting a baseball (fig 1, 3).

As to claim 2 : James discloses perpendicular slots (fig 1).

As to claim 3 : James discloses a central channel and two side channels (50, 48, 32, fig 1).

As to claim 4 : James discloses perpendicular slots (fig 1).

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As to claim 5 : James discloses flush channels (fig 3).

Also,

Claims 1,2,5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Owen. Owen discloses a base plate (34) having a top face a first channel formed in the top face and extending in a first direction, the first channel having opposite top flanges spaced from each other to define a slot there between a second channel formed in the top face and extending in a second direction, the second channel having opposite top flanges spaced from each other to define a slot there between, the second direction being different from the first direction; a slide movably received in one of the channels and switchable between the channels, the slide forming a threaded rod (58) extending through the slot of the channel and beyond the flanges; and an upright stand (28) having a lower end defining an inner-threaded bore engageable with the threaded rod to attach the stand to the top face of the base plate, the upright stand having an upper end forming a cavity for receiving and supporting a baseball (fig 6, 7a,7b).

As to claim 2 : James discloses perpendicular slots (fig 6).

As to claim 5 : James discloses flush channels (fig 3).

As to claim 6 : James discloses edge openings (fig 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over James as applied to claim 1 above, and further in view of Owen. Owen discloses the use of edge opening. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the edge opening of Owen with the apparatus of James in order to more easily insert and remove the slide.

Conclusion

The instant application has taken various well known attachment means and designs for batting practice tees. The examiner does not see any patentable subject matter in the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on Mon-Fri 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D373806*5004234*5556091*5388823*3489411*6 Michael Chambers
238307*4962924 Examiner
Art Unit 3711

October 8, 2004


GREGORY VIDOVIK
SUPERVISORY PATENT EXAMINER
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